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Senate

The Senate met at 2 p.m. and was called to order by the Honorable ROLAND W. BURRIS, a Senator from the State of Illinois.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal God, thank You for life's blessings. We praise You for calling us Your people and for choosing us to give You glory. We are grateful for the wonderful things You do for us: for life and health, for friends and family, for this splendid day. Thank You for blessings that lift our souls: worship and music, knowledge and prayer, meditation and praise. Lord, thank You for the blessings of this legislative branch: Senators and staffers, caring and courage, laws and deliberations. Today, cleanse our hearts and lives and guide us by Your Spirit.

We pray in Your loving Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable ROLAND W. BURRIS led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 24, 2010.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ROLAND W. BURRIS, a

Senator from the State of Illinois, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. BURRIS thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. REID. Mr. President, today there will be a period of morning business until 3 p.m., with Senators permitted to speak therein for 10 minutes each. At 3 p.m. today, the Senate will proceed to the consideration of H.R. 4899, the emergency supplemental appropriations bill. At approximately 4:45 p.m., the Senate will resume the motions with respect to H.R. 4173, the Wall Street reform legislation. It is in order that Senator BROWNBACK make a motion to instruct conferees with respect to auto dealers and Senator HUTCHISON with respect to proprietary trading. Each motion will have 20 minutes of debate prior to a vote. At approximately 5:30, the Senate will proceed to two consecutive votes in relation to the Brownback and Hutchison motions to instruct.

GULF OILSPILL

Mr. REID. Mr. President, it has been nearly 5 weeks since oil started spew-

ing into the Gulf of Mexico and onto our shores. Millions of gallons, miles of polluted coastline, and more than a month later, the consequences of our oil addiction are as clear as the gulf's waters once were.

It has also become clear that the companies responsible for this spill were poorly prepared for this possibility. There is no question that they failed to adequately invest in the technology necessary to respond to such a catastrophe. Days have turned into weeks, while the experts continue to experiment with ways to stop the spill. We still don't know when the end will come so cleanup can finally begin.

Every year, these companies rake in record profits. Then they turn and spend that money on trying to find more oil. It is time they also find safer ways to drill for it and handle it. The five top oil companies have made \$¾ trillion in profits—\$750 billion—over the past decade, but the amount they have invested in cleanup technologies is negligible.

They have invested embarrassingly little in alternative fuels that would make us more secure both at home and abroad. I don't mind oil companies or any other company making money, but these multibillion-dollar corporations are getting rich at the expense of our national security, our economy, and our environment. Every day we pay unfriendly regimes to feed our oil addiction is a day we are less safe.

Everyone who stands in the way of diversifying our economy makes it harder for businesses to recover, for the unemployed to find work, and for our communities to prosper. And every time we see precious water and wildlife coated in crude oil, the threat to our environment is impossible to ignore. Pelicans were on the endangered species list. We took them off. Now, by the hundreds, they are dying. Where they do their hatching is soaked in oil. We may lose our pelicans as a result of BP.

Weaning ourselves off oil is a hard fact for us to face. We consume more

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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than 20 percent of the world's oil but produce less than 3 percent of the world's oil. It is not a change we can make overnight, but if we don't start, the next disaster could make the current one look like a drop in the bucket.

I am tired of waiting for oil companies to get the message. America needs clean alternatives more urgently than ever. In the meantime, those responsible for this terrible oilspill must foot the bill. I am going to do everything I can to make sure they do foot that bill. Taxpayers will not pick up that tab.

This is the final week of what has been a long and productive session. I know everybody is eager to return home to our States and meet with constituents and see our families and honor the sacrifice of our Nation's bravest this Memorial Day, which is 1 week from today.

We have a lot to accomplish between now and then.

One, we must pass a new jobs bill that cuts taxes for middle-class families and small businesses. It includes a host of tax credits, tax extenders, and tax incentives—all of which will help put people back to work. It is something Republicans and Democrats should come together to finish because it is something we can all be proud to support. More than that, it is something each of our States desperately needs.

Two, we have to finish the supplemental war appropriations bill. I have heard some on the other side vow they will stand in the way of this funding. I can think of no worse message to send our troops over Memorial Day than that. I hope Republicans will work with us, not for our sake or their own but for the sake of our Nation's security and all those whose service makes it strong.

Finally, scores of well-qualified nominees have been reported out of committee. They remain on the Senate calendar and are eager to fill these important, vacant positions. They should not be. At this time we have more than 100 nominations on the calendar. During the same period of time in the Bush administration, there were 13—that is 108 to 13. I hope we can confirm many of them this week so they can finally get to work.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period of morning business until 3 p.m., with Senators permitted to speak therein for up to 10 minutes each.

The Senator from Alabama is recognized.

KAGAN NOMINATION

Mr. SESSIONS. Mr. President, Americans cherish and respect their military. They support and celebrate those who wear the uniform and serve our Nation. When our Nation is at war, they understand that this obligation of support deepens. Indeed, just Friday, I got forwarded to me an e-mail from a mother whose son was being deployed to Iraq, and she said that the one thing critical to them was to feel they had the support of the American people.

The American people understand that no matter what your ideology, no matter your view of the conflict we are engaged in, you have to support those whom we in Congress have deployed to execute policies that the President and the Congress have adopted. They didn't adopt the policies; we did. And when we send them, they deserve our support. The American people understand that it is not about politics but about the duty of citizenship—a duty to stand in solidarity with those in harm's way and those who defend our freedoms.

I believe these sentiments—shared by Americans overwhelmingly—are important as we evaluate the conduct of President Obama's Supreme Court nominee, Elena Kagan. They will raise serious questions that really must be answered before we have a final vote. I think it is just as important for me to say that.

Some people have suggested that the issue I am going to talk about is not significant. I think it is. I was involved in the debate of the Solomon amendment. I remember how it happened.

Ms. Kagan, who became the dean of Harvard Law in 2003, kicked the military off Harvard's campus and out of its campus recruitment office. She gave the big law firms full access to recruit bright young associates but obstructed the access of the military as it tried to recruit bright young JAG officers to support and represent our soldiers as they were risking their lives for our country. It was an unjustifiable decision. But rather than acknowledge that Ms. Kagan had acted inappropriately, the Obama administration has instead done something that, to me, is odd: it has tried to defend this indefensible activity—distorting the clear facts in the process. We need to get that straight. As we begin to think about this nomination, we need to understand the facts.

During a recent television interview, Vice President BIDEN actually said that Ms. Kagan was "right" to interfere with military recruitment. He then defended her conduct with the suggestion that she was somehow acting under a court order to keep the military people off campus. In reality—let's be correct—I misspoke—to keep the military from utilizing the normal recruitment offices available to every other law firm in America. In reality, the opposite situation is true. Ms. Kagan disregarded the law, really, in essence, in order to obstruct military recruitment during a time of war.

In 1995, Congress passed the Solomon amendment, which required universities to give equal access to military recruiters if they wished to continue to receive taxpayer funding for their university programs.

The passage of the Solomon amendment was a matter of a large national debate. I suspect most Americans have a vivid recollection of those discussions. It was well known that certain law schools, such as Harvard, were blocking the military from going to their recruitment offices and utilizing the resources like any other entity could do.

Administrators at Harvard and other law schools had been restricting access of military recruiters to campuses for several years, citing as their reason their opposition to President Clinton's don't ask, don't tell policy about gays in the military. That was something on which Congress had voted. It is a matter of statutory law, and President Clinton had indicated his support in the way it would be enforced. It came to be fairly settled as a national policy in that regard.

It was Congress's hope that the Solomon amendment would put an end to this obstruction. It basically said: You cannot deny our military the right to come on campus if they are following U.S. law, and still get Federal money. But Harvard persisted nonetheless.

Finally, in 2002, I believe it was the Air Force that made an official complaint. The Department of Defense spoke up. It quoted the statute that had been passed in the U.S. Code, title 10. They quoted it to Harvard and said: If you continue to deny entrance of our military personnel to the recruiting centers, you get no more Federal money. At that point, the principle evaporated. This great principle on which they were standing, a little money dangled in front of them and they folded on this point.

Dean Clark, Ms. Kagan's predecessor at Harvard, got the message, and he complied. The restrictions on the military recruitment were lifted.

This means that when Ms. Kagan became dean of Harvard, the military had full, open, and equal access to campus facilities. That is the policy she inherited; that is the policy she deeply opposed; and that is the policy she set about to reverse.

Ms. Kagan began her efforts to reverse the policy when she joined 53 of her academic colleagues in filing a brief to challenge the Solomon amendment. This case had been filed in another circuit, not Harvard's. If their efforts in this legal attack were successful, they would again obstruct the military's access on campus, and they could do so without losing Federal funds. That is what she wanted, no doubt about that.

Initially, the Third Circuit Court of Appeals, not her circuit, heard the case, and they issued a 2 to 1 decision that ordered the district court in New Jersey to issue a preliminary injunction suspending enforcement of the